HON'BLE SRI JUSTICE D.S.R. VARMA

WRIT PETITION NO. 1549 OF 1995

Between:

The Depot Manager, APSRTC Bus Depot, Secunderabad- 500 003.

...

Petitioner

AND

The Additional Industrial Tribunal-cum- Additional Labour Court, Hyderabad represented by its Presiding Officer and one another.

....Respondents

HON'BLE SRI JUSTICE D.S.R. VARMA

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ORAL ORDER :

Heard both sides.

2. This Writ Petition is filed challenging the award, dated 2.11.1993, passed by the Additional Industrial Tribunal-cum-Additional Labour Court, Hyderabad, in I.D.No.177 of 1993.

3. The Andhra Pradesh State Road Transport Corporation is the Writ Petitioner, respondent No.1 is the Additional Industrial Tribunal-cum-Labour Court, Hyderabad, and respondent No. 2 is the workman.

4. For the sake of convenience, in this order, the petitioner, respondent No.1 and respondent No.2 will be referred to as "the Corporation", "the Tribunal" and "the workman", respectively.

5. The facts in brief are that the workman while working in the Corporation, made an application, dated 29.10.1979, to the Corporation to accept his resignation with effect from 3.1.1980. As requested by the petitioner, his resignation was accepted. From the said action, it is obvious that the Corporation has accepted the resignation of the workman as he wanted and from the date on which he wanted. After the said acceptance of resignation, no letter of protest in any manner whatsoever has been made by the workman. However, an appeal had been preferred on 21.1.1980 and the same was disposed of by way of rejection on 15.7.1987.

6. The Tribunal, having considered the entire material available on record, held that the eight years delay in dismissal of

the appeal should be added to the length of his service treating his total service as 20 years for the purpose of retirement benefits and eventually directed the Corporation to treat the workman as he was in service from 21.1.1980 till 19.7.1987 and pay the wages accordingly. In other words, the resignation of the workman was given effect to from 19.7.1987 only since the appeal was disposed of on that day keeping the same pending for about seven years.

7. In this regard, it is to be seen that no statuary appeal is provided. However, the relevant provision under C.C.A. Regulations, 1967, is the only regulation, which deals with the disciplinary proceedings against the workman of the Corporation, is available and there is no other statutory appeal provided dealing with the resignations. Further, it is to be seen that the termination of the workman from service is not by virtue of any disciplinary proceedings and, on the contrary, it is only because of the voluntary request made by the workman, seeking acceptance of his resignation and the same was accepted, as noticed already, in the manner requested by the workman himself. So, everything is deemed to have been done by the Corporation in accordance with the wish and pleasure of the workman only and no misappropriation is attributed to the petitioner.

8. Mere pendency of appeal, for about seven long years, in the instant case, may be a considerable length of time, till its disposal, but that time, which took for disposal of the appeal by itself does not confer any right on the workman to claim charges nor the Tribunal is justified in awarding wages for the said period. The reason is simple; the workman ought not to have waited till the date of disposal of the appeal without approaching the Tribunal by way of raising a dispute. Mere pendency of appeal, preferred by the workman, before the concerned authority, does not mean and should not be construed as a reasonable cause for the workman to keep quiet without approaching proper Court of law or without taking proper action, as provided under Law. Hence, in my considered view, the same amounts to laches on the part of the workman and the laches on the part of workman himself shall not

be a justifiable ground for enrichment, which is absolutely undue advantage.

9. For the foregoing, I am of the view that the impugned award, passed by the Tribunal, is wholly unjustifiable and the same is liable to be aside and is accordingly set aside.

10. In the result, the Writ Petition is allowed. No order as to costs.

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D.S.R. VARMA, J

DATE: 29.8.2006
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HON'BLE SRI JUSTICE D.S.R. VARMA

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